

# **Exhibit M**

**Bayzle, Scott E.**

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**From:** Tracey L. O'Reilly <toreilly@toxic torts.org>  
**Sent:** Thursday, June 21, 2012 10:19 AM  
**To:** Bayzle, Scott E.  
**Cc:** 'Denise Carruth'; 'Duane Miller'; 'Matthew Popish'; maxline@toxic torts.org; 'Rebecca Rizzo'; 'Miller, Axline & Sawyer'; naronhalt@toxic torts.org; Thornton, James C.  
**Subject:** RE: Subpoena to Darol Dodd

Scott,

Thank you for your prompt response, and your willingness work with us.

**Protective Order**

It is my understanding that there is already a protective order that was put in place by Judge Scheindlin which covers any additional materials that Dr. Dodd may need to produce. I have attached a copy of it.

**Expenses:**

It is my understanding that the costs for Hamner to produce documents in response to our prior subpoena was already resolved before Judge Scheindlin. It is unclear what "substantial expenses" you are referring to. Our current subpoena to Dr. Dodd is intended merely to close the loop and gather any relevant materials that were not included in the Hamner production. Nonetheless, I am happy to discuss the issue with you.

**Duplicative Depositions:**

We have received permission from the court in Crescenza to take the deposition, and we will issue the deposition notice for all remaining cases in MDL. This would obligate all parties in the MDL to attend the deposition. In general, Judge Scheindlin's discovery rules limit a deposition to two days without further leave of court. I would suggest that, all together, production of Dr. Dodd in response to our notice will make it very difficult for any other party in the MDL to issue a later notice.

Please let me know as soon as possible whether either July 26 or July 27 works as this would coordinate with Dr. Willson and prevent anyone from seeking a ruling to compel a deposition date.

Thanks,

Tracey L. O'Reilly  
Miller, Axline & Sawyer  
1050 Fulton Avenue, Suite 100  
Sacramento, California 95825  
Tel: 916-488-6688  
Fax: 916-488-4288  
Email: toreilly@toxic torts.org

**From:** Bayzle, Scott E. [mailto:[scottbayzle@parkerpoe.com](mailto:scottbayzle@parkerpoe.com)]  
**Sent:** Tuesday, June 19, 2012 3:00 PM  
**To:** 'Tracey L. O'Reilly'  
**Cc:** 'Denise Carruth'; 'Duane Miller'; 'Matthew Popish'; [maxline@toxic torts.org](mailto:maxline@toxic torts.org); 'Rebecca Rizzo'; 'Miller, Axline & Sawyer'; [naronhalt@toxic torts.org](mailto:naronhalt@toxic torts.org); Thornton, James C.  
**Subject:** RE: Subpoena to Darol Dodd

Tracey,

Thank you for your e-mail. We will check on Dr. Dodd's availability on and near the referenced dates and get back with you.

There are a few outstanding items that we still need to discuss. First, as set forth in the formal objections that we served in response to the subpoena, an appropriate protective order will need to be in place prior to the production of any documents in response to the subpoena. If there is already a protective order in place that can sufficiently protect Dr. Darol Dodd's production, please let me know and send me a copy for review. If there is not one, one will need to be entered by the court prior to the production.

Moreover, as also set forth in our formal objections, we need to discuss the reimbursement of the substantial expenses incurred in complying with the document requests in the EDNC subpoena.

Finally, we need to ensure that Dr. Dodd will not be deposed repeatedly in the various MDL cases. While we appreciate your previous e-mail wherein you stated that your firm would not depose Dr. Dodd more than one time, we need to make sure that all of the MDL plaintiff counsel in the various cases are also in agreement or that there is a Court order in place addressing this specific issue. Is there a standing order or discovery order from the Court addressing this issue – i.e., the number of times a third-party can be deposed in the MDL cases? We will need to have a sufficient order and/or stipulation in place adequately addressing this issue.

I will be in the office this week and am available to discuss these items at your convenience.

Many thanks,  
Scott

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**Scott Bayzle**  
Associate

  
Parker Poe

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**From:** Tracey L. O'Reilly [mailto:[toreilly@toxic torts.org](mailto:toreilly@toxic torts.org)]  
**Sent:** Tuesday, June 19, 2012 11:59 AM  
**To:** 'Tracey L. O'Reilly'; Bayzle, Scott E.; Thornton, James C.  
**Cc:** 'Denise Carruth'; 'Duane Miller'; 'Matthew Popish'; [maxline@toxic torts.org](mailto:maxline@toxic torts.org); 'Rebecca Rizzo'; 'Miller, Axline & Sawyer'; [naronhalt@toxic torts.org](mailto:naronhalt@toxic torts.org)  
**Subject:** RE: Subpoena to Darol Dodd

Scott,

We finally got permission from Judge Tucker to take these depositions in the Crescenza case, and I am following up on our prior emails (don't have all of them on my laptop unfortunately) concerning proposed deposition dates.

Counsel for Gabrielle Willson has confirmed that she is available July 26-27. Can you check to see if Dr. Dodd would also be available one of those dates?

Thanks,

Tracey L. O'Reilly  
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Tel: 916-488-6688  
Fax: 916-488-4288  
Email: [toreilly@toxic torts.org](mailto:toreilly@toxic torts.org)

**From:** Tracey L. O'Reilly [mailto:[toreilly@toxic torts.org](mailto:toreilly@toxic torts.org)]  
**Sent:** Friday, April 20, 2012 9:00 AM  
**To:** 'Bayzle, Scott E.'; James C. Thornton  
**Cc:** 'Denise Carruth'; 'Tracey L. O'Reilly'; 'Duane Miller'; 'Matthew Popish'; '[maxline@toxic torts.org](mailto:maxline@toxic torts.org)'; 'Rebecca Rizzo'; 'Miller, Axline & Sawyer'  
**Subject:** RE: Subpoena to Darol Dodd

Scott,

We have reached out to defendants several times, and have yet to receive confirmation from them about dates. I will follow-up with them again today. I will also see if Mr. Miller can call you directly today to discuss.

Thank you for your patience and professional courtesy.

Sincerely,

Tracey L. O'Reilly  
Miller, Axline & Sawyer  
1050 Fulton Avenue, Suite 100  
Sacramento, California 95825  
Tel: 916-488-6688  
Fax: 916-488-4288  
Email: [toreilly@toxic torts.org](mailto:toreilly@toxic torts.org)

**From:** Bayzle, Scott E. [mailto:[scottbayzle@parkerpoe.com](mailto:scottbayzle@parkerpoe.com)]  
**Sent:** Tuesday, April 17, 2012 12:28 PM  
**To:** 'Tracey O'Reilly'; Thornton, James C.  
**Cc:** 'Duane Miller'; 'Michael Axline'; 'Matthew Popish'; 'Rebecca Rizzo'; 'Miller, Axline & Sawyer'; Pappas, William G.  
**Subject:** RE: Subpoena to Darol Dodd

Tracey,

We have not heard anything in response to our March 27 and 28 e-mails, as well as our objections to the Eastern District of North Carolina subpoena. Given the passage of time and other commitments that have arisen since our March e-mail correspondence, we can no longer hold the May dates (see e-mail below) open for Dr. Dodd's deposition. I am sure, however, we can find a mutually-agreeable date in the future so long as we have adequate advance notice.

As indicated in our served objections, an appropriate protective order will need to be in place prior to the production of any documents in response to the subpoena. Moreover, we need to come to an agreement as to the reimbursement of the substantial expenses incurred in complying with the subpoena.

Additionally, as mentioned in my March 27 e-mail, while we appreciate your agreement not to depose Dr. Dodd more than one time, we need to make sure that all of the MDL plaintiff counsel in the various cases are also in agreement or that there is a Court order in place addressing this specific issue. Is there a standing order or discovery order from the Court addressing this issue – i.e., the number of times a third-party can be deposed in the MDL cases? We will need to have a sufficient order and/or stipulation in place addressing this issue.

Many thanks,  
Scott

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**Scott Bayzle**  
Associate

  
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**From:** Bayzle, Scott E.  
**Sent:** Wednesday, March 28, 2012 1:30 PM  
**To:** 'Tracey O'Reilly'; Thornton, James C.  
**Cc:** 'Duane Miller'; 'Michael Axline'; 'Matthew Popish'; 'Rebecca Rizzo'; 'Miller, Axline & Sawyer'  
**Subject:** RE: Subpoena to Darol Dodd

Tracey,

I wanted to get back with you regarding the May dates. The following dates in May would not work for us/Dr. Dodd: May 1-7, 16, 24-31.

Thanks,  
Scott

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**From:** Bayzle, Scott E.  
**Sent:** Tuesday, March 27, 2012 5:49 PM  
**To:** 'Tracey O'Reilly'; Thornton, James C.  
**Cc:** 'Duane Miller'; 'Michael Axline'; 'Matthew Popish'; 'Rebecca Rizzo'; 'Miller, Axline & Sawyer'  
**Subject:** RE: Subpoena to Darol Dodd

Tracey,

Thank you for your e-mail and your agreement to reschedule Dr. Dodd's deposition. We will speak with Dr. Dodd about dates in May and will get you those dates as soon as possible. As requested, we confirm that there is no need to re-serve Dr. Dodd with a revised deposition subpoena to reflect the date change.

We also appreciate your statement that Dr. Dodd would not be deposed multiple times in the various MDL cases. Is there a standing order or discovery order from the Court addressing this issue – i.e., the number of times a third-party can be deposed in the MDL cases? While we appreciate your agreement not to depose Dr. Dodd more than one time, we need to make sure that all of the MDL plaintiff counsel in the various cases are also in agreement or that there is a Court order in place addressing this specific issue.

Many thanks,  
Scott

**From:** Tracey O'Reilly [<mailto:toreilly@toxicorts.org>]  
**Sent:** Tuesday, March 27, 2012 1:59 PM  
**To:** Bayzle, Scott E.; Thornton, James C.  
**Cc:** 'Duane Miller'; 'Michael Axline'; 'Matthew Popish'; 'Rebecca Rizzo'; 'Miller, Axline & Sawyer'  
**Subject:** RE: Subpoena to Darol Dodd

Scott,

I apologize. Have been buried in briefs, and still have another three due Thursday!

Yes, we are very agreeable to rescheduling the deposition for a mutually agreeable time, as long as we do not need to go to the expense of reserving the subpoena. Yes, the deposition will be taken in all MDL cases so that Dr. Dodd will not be deposed numerous times by other MDL plaintiffs.

We are meeting and conferring with defendants on acceptable dates. I would venture that May is likely to be more productive for everyone. Can you let us know which dates in May do not work for Dr. Dodd and your firm so we can circulate some possible alternative dates.

Thanks for reminding me.

Sincerely,

Tracey L. O'Reilly  
Miller, Axline & Sawyer  
1050 Fulton Avenue, Suite 100  
Sacramento, California 95825  
Tel: 916-488-6688  
Fax: 916-488-4288  
Email: [toreilly@toxicorts.org](mailto:toreilly@toxicorts.org)

**From:** Bayzle, Scott E. [<mailto:scottbayzle@parkerpoe.com>]  
**Sent:** Tuesday, March 27, 2012 10:43 AM  
**To:** 'toreilly@toxicorts.org'; Thornton, James C.  
**Cc:** Duane Miller; Michael Axline; Matthew Popish; Rebecca Rizzo; 'Miller, Axline & Sawyer'  
**Subject:** RE: Subpoena to Darol Dodd

Tracey,

We wanted to follow up on our letter of March 21, 2012. We have not heard from you or Duane Miller about setting up a time to talk about the deposition noticed in the North Carolina subpoena to Dr. Dodd – i.e., finding a mutually-convenient alternative date to the Saturday, April 14, 2012 date noticed in the subpoena and (ii) confirming that Dr. Dodd's deposition applies to all cases within the MDL matter so that Dr. Dodd is not going to be deposed over and over again in the various cases within the MDL. We were hopeful that we could come to an agreement on these matters and would not have to incur the unnecessary expense of seeking protection from the Court. Can you let us know today, one way or the other, as to whether you want to confer on these issues? Otherwise, we will need to seek protection from the Court tomorrow.

Thanks,  
Scott

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**Scott Bayzle**

Associate



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**From:** Tracey O'Reilly [<mailto:toreilly@toxic torts.org>]  
**Sent:** Wednesday, March 21, 2012 3:11 PM  
**To:** Thornton, James C.  
**Cc:** Bayzle, Scott E.; Duane Miller; Michael Axline; Matthew Popish; Rebecca Rizzo; 'Miller, Axline & Sawyer'  
**Subject:** RE: Subpoena to Darol Dodd

James,

Thank you for your prompt response and the materials. I have downloaded your letter and the objections, and will get back to you shortly. Your professional courtesy is greatly appreciated.

Tracey

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**From:** Thornton, James C. [<mailto:jamesthornton@parkerpoe.com>]  
**Sent:** Wednesday, March 21, 2012 11:45 AM  
**To:** 'Tracey O'Reilly'  
**Cc:** Bayzle, Scott E.  
**Subject:** RE: Subpoena to Darol Dodd

Dear Ms. O'Reilly,

Thank you for your e-mail. I confirm that my firm is representing Dr. Dodd in connection with the two subpoenas that were served upon him in the *MTBE Products Liability* MDL litigation. Attached are courtesy copies of correspondence and Rule 45(c) objections that have been placed in the mail to Duane C. Miller regarding this matter. The attached have been, or will be shortly, served via facsimile as well. These attached materials address the items raised in your e-mail.

I look forward to discussing this matter with you further. I am confident that we can come to a resolution regarding the deposition time and location and the issues raised in our attached objections.

Many thanks,

James

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**James Thornton**

Partner

  
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**From:** Tracey O'Reilly [mailto:[toreilly@toxicorts.org](mailto:toreilly@toxicorts.org)]  
**Sent:** Tuesday, March 20, 2012 9:03 PM  
**To:** Thornton, James C.  
**Cc:** Duane Miller; Matthew Popish; Michael Axline; Rebecca Rizzo; 'Miller, Axline & Sawyer'  
**Subject:** Subpoena to Darol Dodd

VIA EMAIL

James C. Thornton, Esq.  
Parker Poe

Re: *In Re MTBE Products Liability Litigation*

Dear Mr. Thornton:

I am writing to inquire whether your firm is representing Mr. Dodd concerning the document and deposition subpoena served by our firm in early March, and to meet and confer concerning these subpoenas.

We need to know whether Mr. Dodd will be producing documents this Friday, and whether he will be available for deposition on the date noticed. Please note that we are not seeking to have Mr. Dodd or the The Hamner Institute reproduce the materials produced in response to our prior subpoena. We are looking merely to capture any materials that have been created since our prior subpoena as well as any materials Mr. Dodd may have in his working files that was not produced in response to the prior subpoena.

We are also willing to work with your office and the witness on scheduling the deposition.

Please let us know as soon as possible if we should be contacting another firm.

Sincerely,

Tracey L. O'Reilly  
Miller, Axline & Sawyer  
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